

REMARKS

This is in full and timely response to the Official Action of January 20, 2006. A Petition to Extend Time to Within the First Month also accompanies this paper. Reexamination and reconsideration are respectfully requested.

Drawings

It is noted with appreciation that the drawings filed on August 17, 2001 were accepted by the Examiner.

Priority

The examiner noted that a certified translation of the earlier foreign patent was not filed. A copy of the original foreign-language patent was filed with this application and at this time a certified translation is not necessary.

Claims

Claims 1-11, 14-24, 27-37, 40-50 as initially presented were rejected as anticipated by the patent of Tracton et. al. (6,470,378 B1). Claims 12-13, 25-26, 38-39, 51-52 as initially presented were rejected as obvious modifications to the Tracton patent in light of the patent by Suzuki (6,611,262 B1).

The examiner referenced the Suzuki patent 6,611,262 B1 as prior art relating to this application. The Suzuki patent is assigned to Sony Corporation who is the assignee of the

current application as well. Therefore in accordance with 35 U.S.C. § 103(c) the Suzuki patent does not preclude the patentability of this invention.

Claim 1 has been amended to indicate that the transmitting apparatus of the current invention appends time instant information to transmitted data and that the receiving apparatus of the current invention uses this time data to detect delays in transmission as described on page 21 of the specification as filed. The current invention uses this time information to detect the actual available bandwidth of the transmission line and congestion of the transmission line as described on page 22. The transmitting apparatus selects appropriate elementary streams and scene descriptions based upon this transmission line information as described on pages 22 and 24, respectively.

The Tracton patent relied upon by the examiner discloses a different method of detecting available bandwidth. At Column 3, lines 58-62, the Tracton patent describes a client (apparently analogous to the receiving apparatus in this invention) sending a prepared profile to the server (apparently analogous to the transmitting apparatus in this invention). As described at Column 3, line 62 this profile may include information regarding “network bandwidth” (alternately described as “client network-connection speed” in Claims 17 and 18 of the Tracton patent). Determining the condition of the entire transmission line requires more information than just the client network-connection speed. This fact is acknowledged in the Tracton patent at Column 2, lines 61-67, but that patent does not teach how to determine actual throughput.

The current invention provides for determining actual throughput of the transmission line by sending time information over the transmission line itself. This improvement can also detect changes in the status of the transmission line that would not be detected if using the profile method taught by Tracton.

Claims 2-11, which are dependant on Claim 1, are also patentable for the same reasons as Claim 1.

Claims 12-13 are not obvious modifications to the Tracton patent, even in light of the Suzuki patent. The system described in Claims 12-13 relates to the system described in Claim 1 which is not taught by the Tracton patent. The difference between the current invention and the Tracton patent in this regard is not related to the contents of the Suzuki patent. Claims 12-13 are thus also patentable for the same reasons as Claim 1 is patentable.

Method Claim 14 has been amended to indicate that the data transmitting method of the current invention includes appending time information to transmitted data and detects delays with this information. Claim 14 and all claims dependant on it are thus patentable for similar reasons to those described above for Claim 1.

Apparatus Claim 27 has been amended to indicate that the data transmitting apparatus of the current invention appends time information to transmitted data. Claim 27 and all claims dependant on it are thus patentable for similar reasons..

Method Claim 40 has been amended to indicate that the data transmitting method of the current invention includes appending time information to transmitted data. Claim 40 and all claims dependant on it are thus patentable for similar reasons.

Conclusion

Claims 1 through 52 are allowable and reconsideration of these claims is requested.

Claims 53-77 are cancelled without prejudice or disclaimer.

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Respectfully submitted,

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